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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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|---------------------------|---|---|
| UNITED STATES OF AMERICA, |) | NO. 4-15-71192-MAG |
| |) | |
| Plaintiff, |) | STIPULATION AND PROPOSED ORDER |
| |) | TO CONTINUE HEARING DATE TO |
| v. |) | JANUARY 11, 2016 AND TO EXCLUDE |
| |) | TIME UNDER THE SPEEDY TRIAL ACT |
| FRANCISCO GONZALEZ, |) | |
| |) | Hearing Date: December 7, 2015 |
| Defendant. |) | Time: 9:30 a.m. |
| _____ |) | |

The preliminary hearing in this case is set for December 7, 2015 before this Honorable Court. The parties jointly request that the Court continue this matter to January 11, 2016, at 9:30 a.m., and that the Court exclude time under Federal Rule of Criminal Procedure 5.1(c) and (d) and the Speedy Trial Act, 18 U.S.C. § 3161, between December 7, 2015 and January 11, 2016 because newly assigned defense counsel needs time to review the discovery produced to date, calculate the applicable Sentencing Guidelines and review both the discovery and the Guidelines with Mr. Gonzalez.

On September 14, 2015, a complaint was filed charging Mr. Gonzalez with possession of a controlled substance with intent to distribute, in violation of 21 U.S.C. § 841(a). Mr. Gonzalez has been in custody since his arrest on September 15, 2015. To date, the government has produced 123 pages of discovery to the defense, along with approximately 49 compact discs of audio and video recordings, a significant amount of which is subject to a protective order.

1 Assistant Federal Public Defender Angela Hansen was previously appointed to represent
2 Mr. Gonzalez but on November 10, 2015, Mr. Gonzalez's case was reassigned to undersigned
3 defense counsel. As new incoming counsel, the undersigned needs sufficient time to review the
4 discovery, research and investigate the case, review the evidence that was seized, assess the federal
5 Sentencing Guidelines that apply, and meet and discuss all of this with Mr. Gonzalez. Defense
6 counsel also needs time to negotiate with the government about a potential resolution to the case.

7 For all these reasons, the defense requests additional time to prepare, and the parties agree
8 that it is appropriate to continue this case until January 11, 2016.

9 The parties stipulate and agree that the ends of justice served by this continuance outweigh
10 the best interest of the public and the defendant in a speedy trial. The parties further agree that the
11 failure to grant this continuance would unreasonably deny counsel for Mr. Gonzalez the reasonable
12 time necessary for effective preparation, taking into account the exercise of due diligence.

13 Accordingly, the parties agree that the period of time from December 7, 2015 until January
14 11, 2016, should be excluded under Federal Rule of Criminal Procedure 5.1(c) and (d) and the
15 Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for effective preparation of defense
16 counsel and continuity of defense counsel, taking into account the exercise of due diligence.

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18 DATED: November 18, 2015

/S/
KIMBERLY HOPKINS
Assistant United States Attorney

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21 DATED: November 18, 2015

/S/
HANNI M. FAKHOURY
Assistant Federal Public Defender

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby finds:

1. New defense counsel was assigned to represent Mr. Gonzalez on November 10, 2015 and needs additional time to review the discovery and to investigate the case and the applicable Sentencing Guidelines;

2. Defense counsel will need sufficient time to discuss this case and the evidence with defendant;

3. These tasks are necessary for the defense preparation of the case and the failure to grant the requested continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence; and

4. The ends of justice served by this continuance outweigh the best interest of the public and defendant in a speedy trial.

Based on these findings, it is hereby ordered that the status hearing date of December 7, 2015, scheduled at 9:30 a.m. is vacated and reset for January 11, 2016 at 9:30 a.m. It is further ordered that time is excluded pursuant to Federal Rule of Criminal Procedure 5.1(c) and (d), and the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), from December 7, 2015 through January 11, 2016.

DATED: 11/19/15


HONORABLE KANDIS A. WESTMORE
United States Magistrate Judge